

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JERMAINE WILSON and DAMEON)
SANDERS, individually and for a class,)
Plaintiffs,)
v.) No. 14-cv-08347
CITY OF EVANSTON, ILLINOIS,) Honorable John Z. Lee
Defendant.)

**CITY OF EVANSTON'S
MOTION FOR SUMMARY JUDGMENT**

Defendant, City of Evanston (“Evanston”), by and through its attorneys, Tribler, Orpett & Meyer, P.C., moves the Court to enter summary judgment on liability in its favor. As Defendant explains in the Memorandum filed with this motion, and in its response to Plaintiffs’ Motion for Summary Judgment, the facts, viewed in the light most favorable to Plaintiffs’ show:

1. Plaintiffs may not now assert a Fifth Amendment takings claim when such claim is not asserted in their Second Amended Complaint, which is the operative complaint.
2. Plaintiffs’ fail to make a prima facie case for a substantive due process claim. The Evanston ordinance relied upon by Plaintiffs is inapplicable to the case at bar, as it only applies to lost/stolen property, which is not at issue in this case. In addition, since the Evanston ordinance merely sets forth procedures, it does not include a substantive right.
3. Plaintiffs also fail to satisfy the elements of their procedural due process claim because Evanston’s policy did not prevent Plaintiffs from retrieving their property; the policy was not the moving force behind their inability to retrieve their property; the City was not deliberately indifferent to Plaintiffs in its implementation of procedures; the burden imposed by requiring the

City to hold arrestees' property outweighs any possible value of Plaintiffs' proposed procedure;

This Court should therefore grant summary judgment on liability to Defendant.

Respectfully submitted,

s/ William B. Oberts

One of the Attorneys for City of Evanston

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Defendant, City of Evanston's Motion for Summary Judgment, was served upon:

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service was accomplished pursuant to ECF as to Filing Users and complies with LR 5.5 as to any party who is not a Filing User or represented by a Filing User by mailing a copy to the above-named attorney or party of record at the address listed above, from 225 W. Washington Street, Suite 2550, Chicago, IL 60606, on the 30th day of November, 2020, with proper postage prepaid.

s/ William B. Oberts
an Attorney